

[29th October 1935]

Rao Bahadur Sir A. P. PATRO:—"Sir, if I begin now, I hope I shall have a right to continue my speech to-morrow."

* The Hon. the PRESIDENT:—"Even otherwise, the hon. Member will not be prevented from speaking to-morrow."

* Rao Bahadur Sir A. P. PATRO:—"Sir, in this case, the hon. the Mover rests his case upon the financial condition of the province and also the Hon. the Finance Member with his characteristic brevity and earnestness has placed before us a gloomy picture of the future prospects of this province in respect of its finance. I may say I do not agree with either of them that the finances of our province are such that we have to go out and find new sources of revenue. Sir, deficits there will be and that is not a new phenomena. We were in a flourishing state and got three crores by way of the release of the provincial contribution.

4 p.m. "That was the position. It seems to me that this is a question of history repeating itself. The Government have brought in this Bill with a view to raise fresh revenues."

IV.—ADJOURNMENT MOTION *RE* IMPRISONMENT FOR NON-PAYMENT OF LAND REVENUE IN SOUTH KANARA—*cont.*

The discussion of the motion for the adjournment of the business of the House was then taken up.

* Mr. U. C. SUBRAHMANYA BHATT:—"Mr. President, Sir, under Standing Order No. 19, I beg to move that the business of the House be adjourned for the purpose of discussing a definite matter of urgent public importance, namely, the recent action of the Government in arresting and imprisoning respectable mirasdars of South Kanara district for non-payment of land revenue which has caused widespread panic and resentment in the district.

"My idea in bringing up this motion is to censure the Revenue officials and the Government who have, shutting their eyes to the condition of the people in the district, put in process these repressive measures of arrest and imprisonment of respectable pattadars. I want to censure their action in arresting respectable persons and holding them up for ransom which is virtually what they are doing and what they intend to do. Even in the worst days of the Civil Disobedience Movement when taxes were withheld for political reasons, these measures of arrest and imprisonment were not resorted to by the Government. I have not come across any instance within the whole Presidency where these provisions were invoked by Revenue authorities in the collection of land revenue till now. It is due to the economic reasons especially in that part of the district, the sub-taluka of Hosdrug that the pattadars have not been able to pay the tax, in addition to the world-wide depression and to the special causes which are prevailing all over India owing to the unfortunate adverse ratio and the linking of the rupee with the sovereign. In

29th October 1935] [Mr. U. C. Subrahmanya Bhatt]

addition, we have special reasons. It is the fraudulent policy of the revenue settlement authorities, who, by their hat tricks and their mistaken calculations, have increased the assessment of the land even to the extent of cent per cent in some cases. This was what happened during the last settlement and those mistakes have been perpetuated by the present resettlement and enhanced by $12\frac{1}{2}$ per cent. At the time of the resettlement, the people thought that justice would be done. But those questions were not at all gone into owing to the prevalence of very high prices till the years 1927 and 1928. The situation was eased and people were able to pay the assessment excessive though it was even then. But now there are steadily falling prices with an assessment increased by $12\frac{1}{2}$ per cent, with the result that the people of South Kanara are hit very hard. Agriculture as an industry or as a trade is not paying. Land has lost its value. In addition to this there is one special feature about the sub-taluka of Hosdrug which makes conditions in that taluka really very unbearable. It is identical in all respects with Malabar, the adjacent district—the people are mostly Malayalees,—and the land tenure and crops raised are similar to the system prevailing in Malabar, the crops raised are the same, namely, pepper, but with this difference that the pepper growers in South Kanara have to pay bagayat rates while their brethren in Malabar pay dry rates which are lower and secondly they have also to pay taxes for waste lands and forests, which in Malabar are excluded from taxes. The pepper growers in the sub-taluk have to pay very much higher rates therefore than those obtaining in the adjacent district. In addition, the price of pepper has gone down from Rs. 600 to Rs. 120 with the result that the lands have ceased to pay even the amount which is necessary for the payment of the dues to the Government. It is purely an economic reason that is behind the non-payment of taxes, a fall in the commodity prices coupled with the invidious treatment of this sub-taluk in the matter of taxation. I am sure these points were brought to the notice of the Government during the last one and a half years during the course of the resettlement. The Government shut their eyes to the peculiarities saying that because they have been collecting all land revenue without arrears so long, the people can pay. Unfortunately, the ryot has always got the love for his land which has been owned by his ancestors and handed down by father to son. He felt that the land was not paying, but still the love for his land, for his homestead which had sustained his ancestors compelled him to sell his movables, his jewels and pay till now; but now the end has been reached and a situation arises wherein he has nothing else to pay his assessment with. What have the Government, the Revenue officials, done? They should have opened their eyes and come to the rescue of the ryots. Instead, the Revenue authorities seek to justify their original mistake of over-assessing the ryots by arresting respectable people and virtually holding them to ransom. I am going to prove this from this one instance and other threatened instances which are likely to crop up in future. They want to arrest respectable pattadars and put them in jails without giving

[Mr. U. C. Subrahmanya Bhatt] [29th October 1935]

them an opportunity to show cause why they should not be arrested or taking any explanation from them. They perhaps thought that their relatives or friends or whoever may be interested in them would pay up the ransom and get them released. This is virtually what is happening and it is against this policy of the Government that this House is now asked to give its verdict.

"The first victim of this policy is Mr. Kottoyil Ukkaran Nambiyar. My Hon. and Learned Friend, the Law Member, stated that it was a solitary instance and it was a legal exercise of the power given to the Government under section 48 of the Revenue Recovery Act and that there was no need to raise this adjournment motion. My submission is that a reading of the facts which I am going to narrate to the House will show in what illegal and unjustifiable manner the Revenue officials of the district have acted. Mr. Ukkaran Nambiyar belongs to one of the most respectable families of South Kanara paying an assessment of Rs. 5,000 a year. He respects his person more than anything else. He came into possession of the properties in 1922 as ejaman of his family and got the pattas changed to his name. In 1932 itself, some of the junior members of the family filed a suit for partition in the Subordinate Judge's Court, Mangalore (O.S. No. 144 of 1932). In that suit the junior members applied for the appointment of a receiver and the sub-court accordingly appointed Mr. K. P. Narayana Doss, an advocate, as receiver in 1934. This was in February 1934. This gentleman took possession of the properties and dispossessed Mr. Nambiyar. The Court Receiver paid the assessment in 1934 and also a portion of the assessment for 1935. The Revenue officials know that the properties were under the administration of the court through its receiver. There have been several correspondences which had passed through the receiver and the Tahsildar and the Deputy Tahsildar which show that the Revenue authorities in the district knew that Mr. Nambiyar did not possess the properties or collect a pie of the income. The Patel of Esthilleri where the major portion of the properties are situated was the fourth plaintiff in the above suit and the Shanbogh of Esthilleri and his son were the commissioners appointed by the court to effect the partition in the suit. With a knowledge of all these things, what have the Revenue authorities done. We find that they issued a warrant of arrest against him, arrested him and committed him to prison for two years. He was not given notice to show cause why he should not be proceeded with under the Revenue Recovery Act. He was simply arrested and imprisoned for two years. It was not even stated as to what class he was to be classed under, whether he was to be treated as a civil debtor or as a criminal convict. What happened was that he was treated as a convict. He was kept in Mangalore Sub-jail where there is no provision for civil debtors. All this occurred when the Revenue authorities know that he was not in possession of the properties and that he did not collect a pie of income from the properties and the properties themselves which were liable for the assessment were yet to be sold.

29th October 1935] [Mr. U. C. Subrahmanya Bhatt]

“ Section 48 of the Revenue Recovery Act reads thus :

‘ When arrears of revenue with interest and other charges cannot be liquidated by the sale of the property of the defaulter or of his surety and the Collector shall have reason to believe that the defaulter or his surety is wilfully withholding payment or has been guilty of fraudulent conduct in order to evade payment, it shall be lawful for him to cause the arrest and imprisonment of the defaulter.’

“ So, Sir, two conditions are absolutely necessary as conditions precedent to the use of section 48, this obsolete section 48. Sir, the properties must have been exhausted first and secondly there must be wilful default or neglect on the part of the pattadar. Now, Sir, the properties have not been sold; they were put up for sale on two days on the 22nd September and on the 28th of September. The properties have not been sold. Secondly, Sir, he has not collected a pice of income because he was not in possession of the properties at all. How can it be held that there was wilful refusal to pay the assessment? Just a few days before, a decree was passed by the Sub-Court partitioning the property into two shares and Mr. Ukkaran Nambiyar under the decree of the court was even deprived of the ejamanship and another junior member was put in possession as ejaman, even of the share allotted to his branch. There were several petitions before the Collector himself which referred to this decree and the facts leading up to it and its terms regarding which even evidence was taken by the Tahsildar before the arrest was ordered. I am not going into those details. There is the evidence, documentary evidence before the Collector from which he could be satisfied that the two branches are to pay the shares of land revenue in arrears in the ratio of 52 and 48 per cent as per the decree of court and Mr. Ukkaran Nambiyar was not to pay because the ejamans of the two branches were to pay. Yet this respectable gentleman without his even knowing anything, innocent as he was, was arrested all on a sudden by a warrant which was issued on the 16th by the Revenue Divisional Officer from Kasaragod and which directed production before the Tahsildar. Evidently it must have been in consultation with the Tahsildar and the Deputy Tahsildar that it was issued. The warrant was issued on the 16th and the man was arrested on the 17th. On the 17th he was brought to Kasaragod and kept in the lock-up for two days. This is a very important point. Why was he detained in Kasaragod? Evidently because the Tahsildar expected that some relative of his would pay this Rs. 3,000 which was due to the Government. It was in this expectation that he must have been detained for two days in Kasaragod. Money is a thing which in the villages of South Kanara was very rare. It is impossible to get even hundred rupees loan in the villages of South Kanara nowadays. That is the state of affairs. He could not get the amount and he was put in prison. On the 19th he was sent to the Sub-jail in Mangalore. On the 20th by the side of his cell he was heard raving. Barrister Mr. M. K. Nambiyar who heard that he was heard raving went in the morning and heard his raving but could not see him because he could not meet the Superintendent and get permission. He wrote a letter at 8 a.m. to the Superintendent asking for particulars about the health of Mr. Ukkaran

4-15
p.m.

[Mr. U. C. Subrahmanya Bhatt] [29th October 1935]

Nambiyar. At 1 o'clock the Superintendent wrote back that he was peculiar in his behaviour. But as a matter of fact, Sir, I was told that at 9-30 the very day he was discovered that he was suffering from paralysis. This fact was not disclosed in the letter at 1 o'clock and it was only said that he was suffering from lunacy and that he would be removed to the hospital. He was not treated as a paralytic patient but as a lunatic. In the hospital he was in the lock-up by the side of a lunatic. He was found sprawling on the ground with one side of the body completely paralysed and unable to articulate. That was the treatment meted out to him. On the 21st morning a petition was filed before the Revenue Divisional Officer pointing out the illegality of the arrest and detention and also intimating to him the condition, the bodily condition of the patient and asking him to pass orders. No orders were passed for two days together and on the 23rd evening at 2 or 3 o'clock an order was received refusing the release in spite of the illegality and the injustice which were brought to the notice of the Revenue Divisional Officer, evidently owing to orders from above his hands were tied and he had to refuse to release the man and passed orders accordingly. In the order it was mentioned that the Revenue Divisional Officer and the Tahsildar had no official knowledge, and though there was no fraud on the part of the prisoner the Patel's influence was the cause of the 3 unsuccessful attempts to sell the properties as also because the properties were in the interior and not easily accessible. This in short is the tale of suffering that has been caused by this policy of arrest. No doubt it is one man who has been arrested. His whole future has been ruined. No amount of apologies on the part of the Hon. Member from Government can bring back his body to his former condition. This no doubt, Sir, is one instance. But I understand and I am reliably informed that several notices have been issued and the people have not been locked up because the moment they heard of it they ran away from the district little knowing that it is only a question of time and that the arm of the British Government is long enough to reach anywhere in British India. Echikan Koran Nair is one of the other people who is a big janmamdar against whom another notice has been issued as I hear. The Revenue authorities are making enquiries seeing that the people are running away. They are just finding out the whereabouts of persons and immediately they are found they will be served with notices. That is the state of panic in which the people of the sub-taluks are in. Therefore with great respect I submit that the matter is not a matter which is not of urgency as suggested by the Hon. the Law Member but it is a very urgent matter for the whole sub-taluka of Kasaragod and the rest of the district is in a panic. They do not know what is in store for them; they are afraid that without their being heard, without an opportunity being given to them to explain their case they may be arrested and locked up in jail for two years as in this case, Sir. I should just incidentally answer one question

29th. October 1935] [Mr. U. C. Subrahmanya Bhatt]

which the Hon. the Law Member had raised earlier in the day. He said that this is a judicial order. With great respect and deference”

* The Hon. Sir K. V. REDDI NAYUDU :—“ On a matter of personal explanation, Sir. I never said that this is a judicial matter. I said there is a judicial remedy of obtaining a writ of habeas corpus whereby he can be released. I did not say that this is a judicial order.”

* Mr. U. C. SUBRAHMANYA BHATT :—“ Now, Sir, when all this has been taking place what have the Revenue officials from the Collector of the district downwards been doing all along? The Collector of the district has been receiving Rs. 2,500 per month while the people of the district have been suffering so immensely such untold hardships. He has not cared to see the condition of the people. He has not cared to place before the Government the real condition of the people. On the other hand he and his subordinates want to justify the wrongs of the Government the imposition of the excessive assessment by hook or by crook. By whatever means it is possible for him he wants to raise the revenue irrespective of the hardship that it causes to the people of the district. Surely we cannot expect anything better from a Collector who seems to have no sympathy to the public regarding this question of land revenues and who as would be seen from his own orders passed on a petition filed before him on 15th September 1935 by Mr. Kunhi Ramen Nair, the karnavan of the other branch and by Mr. Govindan Nair the karnavan of the branch of Ukkaran Nambiyar, that they have got Rs. 1,200 with them to pay out of the Rs. 3,000 in arrears and for the balance they must be given three months time to raise a loan and pay. The order on the petition was: ‘ No time would be given; the parties must pay it from the capital.’ Of course he was sure and it was certain that the income was not sufficient to pay and that it must be paid only from the capital. That is the order passed on the petition filed on the 15th by these people. From that order it is patent what the mentality of the Revenue officials of the district is. They are aware that the land is not producing enough. But what do they care? The landholder must pay from the capital. Every year it will diminish and within three or four years it will make them paupers and there will be no capital to pay the revenue. Certainly, Sir, from such a man, from such an unsympathetic attitude we cannot hope anything better. But my question is whether it is a right conduct he has taken. On the other hand he should have apprised the Government of the real state of affairs, that it was not possible to collect the revenue on account of the economic condition and the Government would certainly have come to the rescue of the people. Government would not have ordered arrest or Government would have written off the assessment. On the other hand he has been responsible for this conduct with little or no regard to the justice or legality of the way in which people are arrested and put in prison even, though I must

[Mr. U. C. Subrahmanya Bhatt] [29th October 1935]

4-30
p.m.

admit in justice to Mr. Gawne that when he found the victim of his policy crippled and prostrate in hospital he lost no time in promptly ordering his release. Evidently, Sir, the Revenue officials are terrorising the people, the poor people who are already suffering very much. I appeal to this House to give a verdict on this question. No doubt, to-day it is the case of far off South Kanara, with which the rest of the Presidency may not have much in common, but what to-day is the fate of South Kanara, to-morrow may be the fate of every other district.

"The Government has been increasing the taxes; on the other hand the land does not give increased yield; it is subject to the law of diminishing returns. The Government has been trying to get as much money as possible from land but the land is refusing to keep pace with the exactions of the Government. It will be no wonder, Sir, if in the near future other districts also have to face the same problem. I therefore appeal to the other districts not to view this question as peculiar to South Kanara only. It is a question of principle.

"I should like to say one word more, Sir. These are days of insolvency; everybody is going in for loans. The rural indebtedness of this Presidency which was about 30 crores in 1930 has risen now to well nigh 200 crores. Rural indebtedness has become a very grave problem. The imperial legislature is considering the question of deleting the provision of imprisonment even in cases of civil debtors. Is it advisable, Sir, that these barbarous provisions in the Rent Recovery Act, which are obsolete, should be enforced in these days? It was this aspect of the question that I wanted to place before the House. With these words I commend this adjournment motion to the acceptance of the House."

Mr. K. P. RAMAN MENON:—"Coming as I do from the sister district of Malabar, I feel it my duty to second this motion so ably moved by Mr. Bhatt. Sir, you need not go very far into the history of the case. You have simply to look at section 48 of the Rent Recovery Act, and the particular mode in which this gentleman was arrested. Section 48 of the Act unmistakably says that if it is not possible to raise the money by liquidating a particular land which is subject to the burden of the tax in question, and if further it is proved that the arrears are due owing to the wilful conduct of the pattadar, then and then alone the pattadar is liable to imprisonment. Both these conditions have to be fulfilled. In this particular case, the lands were advertised for sale on the 20th or 22nd September but the man was arrested on the 17th September. So the first condition that is necessary to attract the provisions of section 48 has not arisen. The second condition is it must be apparent to the Collector or the Revenue officer after any enquiry which he might make that the default was wilfully made. As to the interpretation of 'wilfully' there are various decisions to show that 'wilfully' means 'intentionally.' Here as was pointed out by Mr. Bhatt, Mr. Ukkaran Nambiyar was in

29th October 1935] [Mr. K. P. Raman Menon]

management of the family estate in 1934; this arrear is an arrear of 1935; not only was he deprived of the management of the estates in 1934, but there is also the fact that the Revenue authorities dealt with the person who was in actual management of the estate and collected taxes from him in 1934. So that, it is quite clear that the Revenue officials knew that Ukkaran Nambiyar was not in possession of the estates of the family which are liable to pay arrears of land revenue. Can it be said that he was acting wilfully or intentionally flouting the authority of the Government? Certainly anybody would agree with me in saying that this is not a case in which this old man flouted the authorities. You may take it from me that no ryot who is in his senses will flout the authority of the Government. Besides, the holding the ryot has is sacred to him. It is only in circumstances absolutely beyond his control that he allows it to be taken away. This truism applies to all landholders everywhere in this world. The position therefore is clear; so far as Ukkaran Nambiyar was concerned, he has not made any wilful default nor has it been shown that there was any fraudulent conduct on his part that by selling the property he has cheated the revenue authorities. In these circumstances, can it be said that it is a lawful arrest? No doubt the Hon. the Law Member is quite right that a civil action or writ of *habeas* is open to him. It is easy to say you have got a remedy in law. I put it to the Hon. the Law Member; suppose one fine morning he is arrested for some supposed dues (the Hon. Sir K. V. Reddi Nayudu: 'I will walk into the jail')—you need not walk into the jail, you will be compelled to walk into it. Of course, you may file a suit for damages for Rs. 50,000 and get it; but the wrong is there and cannot be repaired. Can any civilized Government be guilty of such wrongs? I ask the Hon. the Revenue Member to sift the matter and see where the wrong lies. As far as I can see from the papers, the Collector has acted very sympathetically. I will mention what he has done. This man was arrested and put in jail; he got a paralytic stroke; the Revenue Divisional Officer was obdurate; as soon as the Collector knew the condition of the man—I must say this in justice to him—he at once hastened to the place and released the man. In this he has acted very humanely, and I hope all officers will act like that. I do not blame any particular officer now, but I blame the system under which such a thing is possible. I say this section of the Act which really says that a man should be a bondsman to Government, must work out his debt to Government somehow or other, is an anachronism and should not find a place in the statute book. I further say that unless the taxes have risen to such a high level that it is impossible for persons to pay up, it is impossible to contemplate the sudden circumstance under which such a large amount of arrears could have become due. That again is practically due to the fact that the southern portion of the South Kanara district, which is really a part of Malabar has been treated for the purposes of assessment not on the same basis on which Malabar has been treated, but on a different basis. In Malabar, pepper gardens are assessed only on ordinary dry rate.

[Mr. K. P. Raman Menon] [29th October 1935]

There is a history behind it. The British Government tried to raise them to the level of regular gardens but the ryots were so unanimous that they cut down all the pepper vines. There was not one pepper vine anywhere. That was in 1805. A Commissioner who was specially appointed to meet the situation then reviewed the position and had a proclamation made by which taxes were reduced to dry rates, and then and then alone the ryots began to cultivate pepper. As a result of cutting the vines even to-day in some portions of South Malabar pepper has not been grown. I shall not be far wrong if I would ask the South Kanara cultivators to cut down all their pepper vines and plant cashew nut or something else. That will take the wind out of the sails of the Government. I would even suggest this drastic course to them.

"Now, it is perfectly clear therefore that this arrest was illegal under this section 48 and I hope the Hon. the Revenue Member will extend his sympathy to these people and find out exactly how this lamentable state of things had come to pass."

* Khan Bahadur MAHMUD SCHAMNAD SAHIB Bahadur:—"Mr. President, Sir, whatever the circumstances connected with this case may be, the law that empowers Revenue officers to arrest and imprison landholders is a very harsh law and it should have been abolished long ago. It is a pity that this obsolete law has been enforced in the present case. The legal aspect of the question has been explained by my Friend Mr. Menon and I do not want to touch that point. In South Kanara, there are many landholders who are not able to pay the assessment in time especially because the pepper gardens in the Hosdrug sub-taluk which bore the tax of one and two annas have been raised to the level of regular gardens. The assessment has risen from a small sum to Rs. 4,000 and Rs. 5,000. The last kist was due in May. Even now there are landholders who have not been able to pay their assessment fully. Even I could not pay the kist in time, although it was due last May. So it is high time that such a law is abolished."

* Mr. A. B. SHETTY:—"Mr. President, this adjournment motion has been moved in an elaborate speech by my Friend Mr. Bhatt and my hon. Friend from Malabar has seconded it in a well-reasoned speech like the able advocate that he is. Mr. Schamnad who is not an unfriendly critic of Government has come forward in support of the motion before the House. Sir, the facts of the case were briefly stated and published in the columns of the *Hindu* a few days ago by the Honorary Secretary of the Landholders' Association, South Kanara. I do now know, Sir, whether many people are aware that there is a section in the Revenue Recovery Act which makes it legal for Government to arrest and imprison defaulters. Government have ample powers under the Act to distrain movables and standing crops and to attach and sell immovable properties. They have not exhausted the means at their disposal in this particular case, and, as has been pointed out, the person arrested and imprisoned was not responsible for the payment of the kist. He has not also made any wilful default.

29th October 1935]

[Mr. A. B. Shetty]

Under these circumstances, it is necessary for the Government to find out what justification there was for arresting and imprisoning him. The Government must be well aware that in the Hosdrug division of South Kanara there have been large arrears of revenue during the last few years. On account of phenomenal fall in the price of pepper in particular the ryots have been hard hit. The recent enhancement of revenue in spite of the unanimous protest of the people has reduced the ryots to a sad plight. To add to all this, the Government have begun to collect resurvey charges also from the people in this part of the district. In this sorry state of affairs I would like to know whether the Government intend to pursue this policy of using this new method of coercion for collecting the balance due to them. It is to draw the attention of Government to this matter and to the strong feeling that has been aroused in the district by the new policy which the Government seem to have adopted that this adjournment motion has been moved. I hope and trust, Sir, that the Hon. the Revenue Member will see what reparation can be made in this matter and tell the House whether Government intend to pursue this new policy of arresting and imprisoning people for any default in the payment of revenue."

Mr. M. S. SRESHTA:—"After the very clear exposition of the case from different aspects by the previous speakers, I do not think it is necessary for me to say much; but I would be failing in my duty if I do not join in what has been said by the previous speakers. Speakers from different parties, as stated by Mr. Shetty, were of the same mind as regards this matter. I would also join my hon. Friend, Mr. Raman Menon in saying that we cannot blame any particular individual. As regards the Collector himself, I must say that he is a very sympathetic gentleman. (A voice: 'Hear, hear.') I do not think, from what I have seen in the papers, that he is to be blamed. He took action as soon as he could. I do not know who is to blame in the matter. Perhaps the incident is due to some very enthusiastic official who wanted to get honour. With that object he probably tried to get the assistance of a forgotten section in the Revenue Recovery Act. When we hear all around us the cry that imprisonment for civil debt should be abolished and when, as a matter of fact, such imprisonment has almost been abolished in several countries, it is very extraordinary that this power which has not been used so far as revenue recovery is concerned for some years now, has been used on this occasion. This shows that officialdom must sometimes be kept in check. We had another instance about which we had discussion this morning. A certain person was flogged and two days afterwards he died of dysentery."

The Hon. Sir K. V. REDDI NAYUDU:—"Is it relevant, Mr. President, to the motion before the House? If he refers to it, I would have no right of reply."

Mr. M. S. SRESHTA:—"I do not know why the Hon. the Law Member seems to be very keen on this question. I think that he as a

[Mr. M. S. Sreshta]

[29th October 1935]

Member of Government should be as anxious as we are to see that justice is done. If a man dies two days after he is flogged, it is very necessary that some stringent enquiry should be held."

* The Hon. the PRESIDENT:—"The hon. Member may limit his observations to the South Kanara business."

Mr. M. S. SRESHTA:—"I bow to your ruling, Sir. As I was saying, I do not blame any official in the matter. As a matter of fact, so far as the Collector is concerned, I have paid him a tribute. But all the same, some enquiry must be held to find out whether action should have been taken under this obsolete section and a person taken to jail where he stands the risk of losing his life.

"Sir, we have been told that it is an absolutely illegal action. That point has been fully explained to the House by my hon. Friends. But I may point out that there is no proof that an attempt has been made to liquidate this debt by bringing the property of the man for sale. A man has been straightaway arrested. I believe so far as civil law is concerned, if there is a mortgage debt, you have got this dual remedy. You must first proceed against the land. In the same way, so far as revenue recovery is concerned, you must first proceed against the land. This being so, it is clearly illegal and as such the matter deserves a careful enquiry. I have no doubt that the Hon. the Revenue Member who is also a very sympathetic official—he was himself in South Kanara and has got a great reputation for sympathy—will see that such acts are not repeated in the same district or elsewhere. This shows the desirability of officials having to be very careful in carrying out the provisions of any Act."

* The Hon. Mr. C. A. SOUTER:—"Mr. President, Sir, as I wanted to say this morning,—I was then ruled out of order—I know nothing about this case at all. As I have already told the House, I have asked for a report on the matter.

"In this connexion I have to say a few things about the speech of my hon. Friend, the Mover. I must say that I take great exception to the manner in which my hon. Friend the Mover, Mr. Subrahmanya Bhatt has referred to Mr. Gawne as Collector. Throughout his speech his reference to Mr. Gawne personally seemed to me to savour of a great deal of personal animosity."

Mr. U. C. SUBRAHMANYA BHATT:—"A word of personal explanation, Sir." (Cries of 'Order, order.')

The Hon. Mr. C. A. SOUTER:—"I do think, Sir, that those remarks ought not to be made on the floor of this House."

* Mr. U. C. SUBRAHMANYA BHATT:—"Sir, I may say that there is absolutely no personal animosity or anything of the sort. The reason I have made the remarks complained of is this: The Collector's order on the petition, dated 15th September says that though the property

29th October 1935] [Mr. U. C. Subrahmanya Bhatt]

has not produced enough and there is nothing to pay, he must pay from the capital. That shows that his bent of mind was unsympathetic towards that individual."

* The Hon. Mr. C. A. SOUTER:—"Mr. Bhatt has attempted an explanation. I can only say that the remarks of my hon. Friends, Messrs. Raman Menon, Schammad Sahib and Shetty do not bear out the character which he would impute to Mr. Gawne. As I said, Sir, I know nothing about this matter. I am making enquiries into it.

"It has been advanced that this is the Government policy. The Government knows nothing about this matter. It is not the Government policy. If in an isolated case like this a wrong has been done, it will be set right. All I can say is that during the 35 years of my service, although I knew of this provision in the Act, I have never used it. My Hon. Colleague, Mr. Bracken, who has been in this country for about the same period as myself, has also not used it. To say that it is Government policy to use this section is wrong. Well, if it is a question of having that section repealed, I have no objection at all to look into that matter. The section is there no doubt, but that is no reason at all for saying that it is being used in this manner. I cannot answer that point, because I do not know the facts of the case. All I can say is that I shall enquire into the matter and, if necessary, look into the question of amending section 48 of the Revenue Recovery Act."

* Mr. U. C. SUBRAHMANYA BHATT:—"One word in reply, Sir. With specific reference to the remarks made by the Hon. the Revenue Member regarding that portion of my speech which referred to Mr. Gawne, I may say, Sir, that as head of the district we expected him to show more responsibility towards the people. He ought to have realized the state of the people and apprised the higher authorities regarding the condition of the people and their inability to pay the kist. The very fact that he has not done that, the very fact that he as the head of the Government in the district has allowed these repressive measures under section 48 to arrest and imprison persons—a section which the Hon. the Revenue Member himself says has not been used by him or by any other official in this Presidency during the 30 years of their experience—shutting his eyes to the real cause of non-payment, is sufficient proof that sufficient sympathy has not been shown to the people. I appeal to the House on these facts to judge as to whether my remarks were not based on facts or whether they were based on any personal animosity. So far as I am concerned, I have no personal animosity towards the Collector. I move with him in the best of terms. I give this assurance to the House and I hope my Hon. Friend the Revenue Member will take it in the light in which it is offered. I do not mean any disrespect to the Collector or to anybody else. Here are the facts and, coupled with this conduct there is the order of the Collector on the petition, dated 15th September 1935 which says that irrespective of the fact whether the property yields the money or not, the amount must be paid out of the capital. Even this morning it

102 ADJOURNMENT MOTION *re* IMPRISONMENT FOR NON-PAYMENT OF
LAND REVENUE IN SOUTH KANARA

[Mr. U. C. Subrahmanya Bhatt] [29th October 1935]

was elicited in answer to a question that about Rs. 2,000 was collected from the district as process-fee on distraint warrants issued against defaulting pattadars. That shows the mentality of the officer who has passed that order. I am not going to say anything more. It is only as a reply to the accusation which the Hon. the Revenue Member has thought fit to make that I have made these remarks. The Hon. Member has not cared to get the information and place it before the House though this matter was published long ago and I myself had written to him about it. All that he still has to say is he knows nothing about it and he will enquire. Not a word is said about the larger question of excessive taxation which is the cause of this crisis or regarding the special hardships of the Subtaluka of Hosdrug referred to above."

The motion was put and declared lost.

Mr. U. C. Subrahmanya Bhatt demanded a poll and the House divided thus:—

Ayes 6.

- 1 Mr. M. S. Sreshta.
- 2 " U. C. Subrahmanya Bhatt.
- 3 Mrs. A. Rukmani Lakshmipathi.

- 4 Mr. K. P. Raman Menon.
- 5 " P. M. Thangal.
- 6 " P. V. Krishnayya Choudari.

Noes 35.

- 1 The Hon. Sir K. V. Reddi Nayudu.
- 2 " Rao Bahadur A. T. Pan-nirselyam.
- 3 " Mr. C. A. Souter.
- 4 " Mr. G. T. H. Bracken.
- 5 " Diwan Bahadur S. Ku-maraswami Reddiyar.
- 6 " Mr. P. T. Rajan.
- 7 " the Raja of Bobbili.
- 8 Diwan Bahadur C. Natesa Muda-liyar.
- 9 Mrs. K. Alamelumangathayaramma.
- 10 Mr. W. Scott Brown.
- 11 " H. R. Uzielli.
- 12 " C. E. Jones.
- 13 " G. T. Boag.
- 14 " R. Madanagopal Nayudu.
- 15 " T. B. Russell.
- 16 " T. Sundara Rao Nayudu.
- 17 Khan Sahib Syed Tajuddin Sahib Bahadur.

- 18 Mr. V. M. Ramaswami Mudaliyar.
- 19 " G. Ranganatha Mudaliyar.
- 20 " M. Devadasan.
- 21 Rao Sahib N. Siva Raj.
- 22 Mr. D. M. Reid.
- 23 " W. K. M. Langley.
- 24 " P. V. Rajagopal Pillai.
- 25 " V. G. Vasudeva Pillai.
- 26 " J. M. Smith.
- 27 Rao Sahib V. Dharmalingam Pillai.
- 28 Rao Bahadur D. Krishnamurti.
- 29 Mr. M. G. Patnaik Mahasayo.
- 30 Diwan Bahadur A. M. M. Muru-gappa Chettiyar.
- 31 Mr. G. Sriramulu.
- 32 Rao Sahib D. V. Narasimhaswami.
- 33 " Pandit Ganala Rama-murti.
- 34 Mr. K. Kesavaramamurti Nayudu.
- 35 " C. Basu Dev.

Neutral 18.

- 1 Mr. P. K. Ramachandra Padayachi.
- 2 Khan Bahadur Mahmud Schamnad.
- 3 Mr. M. B. Rangaswami Reddi.
- 4 Dr. P. Subbaravan.
- 5 Diwan Bahadur T. A. Ramalinga Chettiyar.
- 6 Mr. Basheer Ahmed Sayeed.
- 7 " T. S. Ramaswami Ayyar.
- 8 " A. B. Shetty.
- 9 Khan Bahadur P. Khalif-ul-lah Sahib Bahadur.

- 10 B. Pocker Sahib Bahadur.
- 11 Mr. M. A. Manikkavelu Nayakar.
- 12 " P. Peddi Raju.
- 13 " K. A. Nachiyappa Gounder.
- 14 " K. M. Duraiswami Reddiyar.
- 15 " J. A. Davis.
- 16 Rao Sahib V. I. Muniswami Pillai.
- 17 Mr. S. M. K. Beyabani Sahib Bahadur.
- 18 Subadar-Major S. A. Nanjappa.

Ayes: 6. *Noes*: 35. *Neutral*: 18.

The motion was lost.

The House then adjourned to meet again at 11 a.m. the next day.